

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In Re: W.R. GRACE & CO., et al., Debtors.	§ § § § § §	Chapter 11 Jointly Administered Case No. 01-01139 (JKF)
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**FEE AUDITOR'S FINAL REPORT REGARDING
FEE APPLICATION OF CARELLA, BYRNE,
BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN
FOR THE TENTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Tenth Interim Period (the "Application").

BACKGROUND

1. Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein ("CBBG") was retained as Special Litigation and Environmental Counsel to Debtors. In the Application, CBBG seeks approval of fees totaling \$195,574.00 and costs totaling \$13,638.05¹ for its services from July 1, 2003, through September 30, 2003.

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended

¹This amount reflects a reduction taken by CBBG totaling \$168.00 for "In-House Reproduction" expenses contained in the July 2003 monthly invoice which exceeded the \$0.15 per page maximum rate.

Effective February 1, 2001, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, Issued January 30, 1996, (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served on CBBG an initial report based on our review, and received a response from CBBG, portions of which response are quoted herein.

DISCUSSION

3. In our initial report, we noted that CBBG seeks reimbursement for a lodging expense totaling \$515.25 which, without additional detail, appears excessive.

07/31/03 Travel Expense - JMA 7/16/03 Ritz Carlton D.C. 515.25

The Guidelines II.E.1. states, "...[f]actors relevant to a determination that the expense is proper include the following: 1. Whether the expense is reasonable and economical. For example, first class and other luxurious travel mode or accommodations will normally be objectionable." We asked CBBG to provide additional detail so that we might further assess the reasonableness of this expense. CBBG responded as follows:

Attached hereto is a copy of the hotel bill for JMA's stay at the Ritz Carlton, located in Washington, D.C. on July 16, 2003. The Ritz Carlton Hotel was chosen because it is located within walking distance of the offices of Wallace, King, Marraro & Branson, PLLC, co-counsel with Carella Byrne in the *Interfaith Community Organization v. Honeywell International, Inc.* case. The purpose for the trip was twofold. First, it involved a meeting with client representatives concerning the Court's decision in the *Interfaith* case and the submission of a fee petition in accordance with the Court's award of attorneys' fees and expenses under the Resource Conservation and Recovery Act, 42 U.S.C. § 6972(e) (the "RCRA Fee Petition"). Second, it involved working on the preparation of the RCRA Fee Petition. The Ritz Carlton Hotel had available rooms.

Since the hotel was in walking distance of the Wallace King firm, costs incurred for ground transportation were obviated. Notwithstanding the foregoing, Carella Byrne will voluntarily reduce this expense from \$515.25 to \$300, which, in our experience is an average rate for standard overnight hotel accommodations in Washington, D.C.

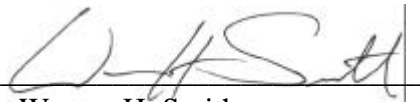
We appreciate the response and accept the voluntary reduction figure. While we maintain that \$250.00 per night is a reasonable ceiling for lodging in Washington D.C., that figure is mitigated by the savings in transportation costs referenced in the response. Thus, we recommend a reduction of \$215.25 in expenses.

CONCLUSION

4. Thus, we recommend approval of fees totaling \$195,574.00 and costs totaling \$13,422.80 (\$13,638.05 minus \$215.25) for CBBG's services from July 1, 2003, through September 30, 2003.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.

By: 
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FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served First Class United States mail to the attached service list on this 5th day of February, 2004.


Warren H. Smith

SERVICE LIST

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